

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

SEAN ENRIQUE O'KEEFE,

Defendant.

Case No. 14CR2354-BAS

SUPERSEDING INFORMATION

Title 18, United States Code, Section 1349 - Conspiracy to Commit Mail Fraud and Health Care Fraud; and Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461 - Criminal Forfeiture

The U.S. Attorney charges:

INTRODUCTORY ALLEGATIONS

At all times relevant:

1. Defendant Sean E. O'KEEFE (hereinafter referred to as "O'KEEFE") was an attorney licensed in the state of California to practice law. O'KEEFE owned and operated "The Law Offices of Sean E. O'KEEFE," in San Diego. O'KEEFE was admitted to the California State Bar in 1984, and has been a certified specialist in the area of California Workers' Compensation Law since 1998.

2. O'KEEFE represented clients in their workers' compensation cases, helping to manage their medical care, interacting with their

1 insurers, and representing them before the Worker's Compensation
2 Appeals Board.

3 3. The California Workers' Compensation System ("CWCS")
4 required that employers in California provide workers' compensation
5 benefits to their employees for qualifying injuries sustained in the
6 course of their employment. The CWCS was regulated by the California
7 Labor Code, the California Insurance Code, and the California Code of
8 Regulations, and was administered by the California Department of
9 Industrial Relations.

10 4. CWCS benefits were administered by the employer, an insurer,
11 or a third party administrator. The CWCS required claims
12 administrators to authorize and pay for medical care that was
13 "reasonably required to cure or relieve the injured worker from the
14 effects of his or her injury," and included medical, surgical,
15 chiropractic, acupuncture, and hospital treatment.

16 5. The State Compensation Insurance Fund ("SCIF") was a quasi-
17 governmental organization which operated as a private company and was
18 considered the insurer of last resort, playing a key role in
19 guaranteeing the availability of affordable workers' compensation
20 insurance in California.

21 6. Injured employees could retain attorneys to represent them
22 in their workers' compensation cases. These attorneys were called
23 "applicants' attorneys." They were paid a fee out of the applicant's
24 recovery. According to the California Department of Industrial
25 Relations, the applicant attorney's job included protecting the rights
26 of the client, planning a strategy for the client's case to obtain all
27 the benefits owed to the client, advocating for the client, gathering
28 information to support the client's claim, and representing the client

1 before a workers' compensation judge. It was not part of the
2 applicant attorney's job to seek or accept kickbacks to the attorney
3 for referrals to particular surgeons or hospitals.

4 7. Worker's compensation attorneys often recommended that their
5 worker's compensation clients see certain doctors. Those doctors, in
6 turn, recommended that the clients be treated at the hospital or
7 facility at which they had admitting privileges and where they
8 performed surgeries. Insurance providers and SCIF paid the hospitals
9 and surgeons for medical services provided to workers' compensation
10 patients.

11 8. Attorneys owed a fiduciary duty to their clients. This duty
12 required that attorneys act in their client's best interests, and not
13 for their own professional, pecuniary, or personal gain. Accepting
14 kickbacks without the client's consent was a breach of the attorney's
15 fiduciary duty.

16 9. Michael Drobot (charged elsewhere) (hereinafter "Drobot")
17 owned and operated Pacific Hospital of Long Beach in Long Beach,
18 California, as well as other entities.

19 10. Drs. R.S., L.T., R.R., and K.R. were spine surgeons who
20 practiced in San Diego and other locations.

21 Count 1

22 **CONSPIRACY TO COMMIT MAIL FRAUD AND HEALTH CARE FRAUD**

23 **18 U.S.C. § 1349**

24 11. The allegations contained at paragraphs 1 through 10 are
25 realleged and incorporated by reference.

26 12. Beginning on an unknown date, but no later than April 2011,
27 and continuing through approximately July 2014, in the Southern
28 District of California and elsewhere, defendant SEAN ENRIQUE O'KEEFE

1 did knowingly and intentionally conspire with Drobot, Drs. R.S., L.T.,
2 R.R., K.R. and others to:

3 a. deprive O'Keefe's clients of their right to his honest
4 services by devising a kickback scheme, in which he received
5 money in exchange for referring injured workers to specific
6 medical professionals and facilities when the injured
7 workers required spine surgery and other medical services,
8 and which used mailings sent via U.S. Postal Service and
9 private and commercial, interstate carriers as an essential
10 part of the scheme, in violation of 18 U.S.C. §§ 1341 and
11 1346; and

12 b. defraud a health-care benefit program by means of materially
13 false and fraudulent pretenses, representations, and
14 promises, by inducing insurance carriers to pay workers'
15 compensation insurance claims for medical care for patients,
16 by concealing a kickback scheme through which Defendant
17 received money to refer injured workers to specific medical
18 professionals and facilities to receive spine surgeries and
19 other medical services, which was material to the insurance
20 carriers, in violation of 18 U.S.C. § 1347.

21 **MANNER AND MEANS**

22 13. The conspiracy was carried out using the following manner
23 and means, among others:

24 a. O'KEEFE entered into agreements with Drobot and others
25 to obtain kickbacks for referring O'KEEFE's law clients to specific
26 medical professionals, including Drs. R.S., L.T., R.R., and K.R., for
27 spinal surgery and other medical services.

1 b. Based on the fraudulent offer of kickbacks, O'KEEFE
2 referred his clients with spinal injuries to Drs. R.S., L.T., R.R.,
3 and K.R. for evaluation and surgery, in violation of his fiduciary
4 duty to his clients.

5 c. O'KEEFE concealed from his clients the kickback
6 payments he received from Drobot and others, in violation of his
7 fiduciary duty to his clients.

8 d. O'KEEFE disguised and concealed the illegal kickback
9 scheme by instructing Drobot to pay the kickbacks to employees of
10 O'KEEFE's law firm, to whom O'KEEFE owed compensation, and to
11 misrepresent these employees as working for Pacific Hospital of Long
12 Beach.

13 e. O'KEEFE disguised and concealed the illegal kickback
14 scheme by entering into sham legal retainer agreements with Drobot and
15 others.

16 f. O'KEEFE generated fraudulent "legal invoices" to Drobot
17 and others for services he and his firm never provided in an effort to
18 disguise and conceal the illegal kickbacks.

19 g. The corrupt doctors and hospitals that treated
20 O'KEEFE's clients submitted bills to SCIF and other insurance carriers
21 via U.S. mail, and fraudulently concealed the illegal kickbacks from
22 SCIF and other insurance carriers in those mailings.

23 h. O'KEEFE concealed his illegal kickback scheme in
24 communications with his legal clients, SCIF and other insurance
25 carriers via U.S. mail.

26 i. O'KEEFE regularly signed and sent to his clients, to
27 insurance companies, and to SCIF a "Statement in Compliance with Labor
28 Code § 4906(G)" that he "[had] not offered, delivered, received, or

1 accepted any rebate, refund, commission, preference, patronage,
2 dividend, discount, or other consideration, whether in the form of
3 money or otherwise, as compensation or inducement for any referred
4 examination or evaluation."

5 j. O'KEEFE caused SCIF and other insurance carriers to pay
6 for the surgeries procured through kickbacks by checks sent through
7 U.S. mail.

8 All in violation of Title 18, United States Code, Section 1349.

9 **FORFEITURE ALLEGATIONS**

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11 14. The allegations contained in paragraphs 1 through 13 of this
12 Information are hereby realleged and incorporated by reference for the
13 purpose of alleging forfeiture pursuant to Title 18, United States
14 Code, Section 981(a)(1)(C) and Title 28, United States Code, Section
15 2461.

16 15. Upon conviction of Count 1, defendant SEAN ENRIQUE O'KEEFE
17 shall forfeit to the United States, any real or personal property
18 constituting, derived from, or traceable to the proceeds that the
19 defendant obtained directly or indirectly as a result of the offense,
20 pursuant to Title 18, United States Code, Section 981(a)(1)(C) and
21 Title 28, United States Code, Section 2461(c).

22 16. If any of the property described above, as a result of any
23 act or omission of the defendant:

- 24 a. cannot be located upon the exercise of due diligence;
25 b. has been transferred or sold to, or deposited with, a third
26 party;
27 c. has been placed beyond the jurisdiction of the court;
28 d. has been substantially diminished in value; or


e. has been commingled with other property which cannot be divided without difficulty,

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), made applicable herein by Title 28, United States Code, Section 2461(c) and Title 18, United States Code, Section 982(b), to seek forfeiture of any other property of the defendant up to the value of the said property described above as being subject to forfeiture.

DATED: 11/3/2015.

LAURA E. DUFFY
United States Attorney

By:


VALERIE H. CHU
Assistant U.S. Attorney

By:


FRED SHEPPARD
Assistant U.S. Attorney